

[Below Market Rate Condominium Conversion Program.]

Ordinance amending the San Francisco Subdivision Code by adding Section 1344 to update and clarify the provisions relating to Below Market Rate Units under the Condominium Conversion Program including provisions related to the calculation of sales price, renting, capital improvements, duration and monitoring of affordability, marketing, and ongoing regulations and the provisions relating to Original Subdividers who rent their Units; providing for alternatives for compliance with the ordinance; and amending Sections 1308, 1309, 1341, 1341B, 1343, 1359, and 1385 to make conforming changes, and making findings including findings under the California Environmental Quality Act (CEQA).

Note: Additions are single-underline italics Times New Roman;
deletions are ~~strikethrough italics Times New Roman~~.
Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings. The Board of Supervisors hereby finds and determines as follows:

(a) Program History: The City of San Francisco created the Below Market Rate Condominium Conversion Program ("Condominium Conversion Program" or "Program") to require, in part, that certain units converted to condominiums be restricted as below-market rate units ("BMR Units"). The Condominium Conversion Program was adopted as part of the San Francisco Subdivision Code in ~~the late 1970s~~ 1979 under sections 1341, ~~1341B~~ and 1385. The Program was intended to comply with the City's Residence Element of the Master Plan, which called for expanding opportunities for homeownership while preserving and expanding the supply of low- and moderate-income housing. The Program allowed apartment

1 buildings to be converted to condominiums only if 10% or greater of the converted units were
2 set aside as affordable units for households earning less than 80% or 120% of Area Median
3 Income ("AMI"), as determined by the Planning Commission. Renters in the units were given
4 the right of first refusal to purchase the unit and seniors who chose not to purchase were
5 given lifetime leases.

6 (b) Number of BMR Units, Income Levels and Unit Mix: As of ~~March 3~~July, 2008,
7 the Condominium Conversion Program includes a total of ~~599~~550 BMR units. Of these BMR
8 Units, ~~45~~16% are designated low-income units with maximum prices, rents and incomes set at
9 80% AMI and ~~55~~84% are designated moderate-income units with maximum prices, rents and
10 incomes set at 120% AMI. Overall, BMR Unit sizes are small with 24% being studios, ~~58~~59%
11 1-bedrooms, 16% 2-bedrooms and ~~less than 21~~% being 3-bedrooms or larger. Furthermore,
12 approximately ~~34~~26% of all BMR Units were mapped for condominium use and have been
13 maintained as rentals by the original subdivider.

14 (c) Suspension of Program: The Subdivision Code was amended in 1988 to
15 suspend further conversion of BMR Units under this program and to restrict the number of
16 conversions through a lottery method that capped the number of conversions at 200 per year.
17 All BMR Units that were designated as BMR units under the Condominium Conversion
18 Program have remained so, except for a certain number of units that were released by the
19 City under Subdivision Code Section 1385 because the owner demonstrated that a low- or
20 moderate- income buyer could not be found for the unit. No new units are being produced
21 through this Program. The 1988 amendments also clarified household requirements, resale
22 procedures and appointed the Mayor's Office of Housing ("MOH") as the City department
23 responsible for monitoring the program.

1 (d) Current Issues with Program: The provisions of the Condominium Conversion
2 Program have become out-of-date by today's standards of effectively implementing and
3 monitoring a BMR program. It would benefit the City and the owners of BMR units to have
4 clearly defined policies and procedures. While some issues are unique to the Condominium
5 Conversion Program, for new owners there is an opportunity to align it with the Inclusionary
6 Housing Program's Procedures Manual, which was discussed widely and at length in 2007
7 and subsequently adopted by the Board of Supervisors. While this legislation adopts new
8 regulations for owners who purchase on or after the effective date of the legislation, the Board
9 of Supervisors intends only to clarify the existing rules that apply to owners who purchased
10 before the effective date. The rules for these owners are the same as, or more favorable to
11 the owners, than existing rules as applied by the Mayor's Office of Housing.

12 (e) In enacting Section 1341(e), the Board of Supervisors provided that the BMR
13 Ownership Units "shall remain within the low or moderate income housing stock pursuant to
14 the recapture provision[s] provided herein]." This provision, and all provisions of Section 1341
15 and 1385 of the Subdivision Code, are referenced on all Subdivision Maps of projects that
16 include BMR Units in the Program. These maps are recorded. In addition to the note
17 recorded on the Subdivision Map, since approximately December 1, 1992, MOH has
18 requested that purchasers of BMR Ownership Units sign affidavits stating that they
19 understand some of the key terms of the Program, including a "permanent" restriction on the
20 resale price. Many owners have testified in hearings on this legislation that they were
21 unaware of the permanent nature of the resale restriction on BMR Units. The Board finds as
22 a policy matter that, regardless of the fact that all BMR Unit owners were given notice of the
23 restrictions on their Units through the recorded Subdivision Map, owners who purchased on or
24 after December 1, 1992 were given additional, specific notice of the permanency of the

1 restrictions and those who purchased "pre-affidavit" were not given this additional notice. For
2 those who were not given additional notice, the Board finds as a matter of policy and equity,
3 that these "pre-affidavit owners" should be given the option to permanently exit the Program
4 under a shared equity model. The City's share of the equity will be used to create new
5 affordable housing opportunities. To this end, any funds collected under this ordinance shall
6 be deposited in the Mayor's Home Ownership Assistance Loan Fund. While any funds
7 collected will not be sufficient for the creation of newly constructed one-to-one replacement
8 housing, funds should be sufficient to expand home ownership opportunities for first-time
9 homebuyers. The Board finds, however, that the "post-affidavit" owners were or should have
10 been aware of the permanence of the resale restrictions and that, given the goal of the
11 Program to retain the BMR Units in the City's affordable housing stock, it would not be
12 appropriate to extend this option to "post-affidavit" owners.

13 (ef) The Planning Department has completed environmental review of this ordinance
14 pursuant to the California Environmental Quality Act ("CEQA"), the CEQA Guidelines, and
15 Chapter 31 of the San Francisco Administrative Code. Documentation of that review is on file
16 with the Clerk of the Board of Supervisors in File No. 080520.

17 Section 2. The San Francisco Subdivision Code is hereby amended by adding Section
18 1344, to read as follows:

19 *Sec. 1344. BELOW MARKET RATE CONDOMINIUM CONVERSION PROGRAM.*

20 *As described below, this Section is intended to supersede, to the extent described in subsection*
21 *(a) below, the provisions of Sections 1341, 1341B and 1385 relating to the regulation of units subject to*
22 *those provisions ("Condominium Conversion BMR Units" or "BMR Units").*

23 *(a) Application.*

1 (1) BMR Units purchased or acquired on or after the effective date of this ordinance.
2 Unless a Section specifically applies only to BMR Units purchased before the effective date of this
3 ordinance, every part of this Section 1344 applies to BMR Units purchased on or after the effective
4 date of this ordinance. For these BMR Units, this Section 1344 replaces and supersedes all provisions
5 of Sections 1341, 1341B, and 1385.

6 (2) BMR Units purchased or acquired before the effective date of this ordinance.

7 (A) This ordinance applies to all BMR Units purchased or acquired before the effective date
8 of this ordinance as specified in each subsection and supersedes Sections 1341, 1341B and 1385 only
9 as provided herein.

10 (B) Alternatives To Compliance With This Section. At the election of any Pre-
11 Legislation Owner who qualifies, he or she may enter into a contract with the City to exercise
12 one of the alternatives to compliance with this Section listed in Section 1344(i) below. At the
13 owner's option, the owner may sign an agreement with the City to make his or her BMR Unit
14 subject to all of the provisions of this Section as if the BMR Unit was purchased or acquired
15 on or after the effective date of this ordinance. The owner must agree to be governed by the
16 totality of the regulations including, but not limited to, the provisions related to sale price,
17 capital improvements, and rental procedures.

18 (3) This legislation applies to Original Subdividers as defined herein and as
19 provided for in Section 1344(h).

20 (b) Definitions. For purposes of this Program the following definitions shall apply. For
21 terms not defined below, the definitions in the Subdivision Code and the definitions in the City and
22 County of San Francisco Residential Inclusionary Affordable Housing Program Monitoring
23 Procedures Manual, published in 2007 under Planning Code Sections 315 et seq. and under this
24 Section shall apply.

1 (1) "Annual Gross Income" shall mean gross income as defined in CCR Title 25, Section
2 6914, as amended from time to time, except that the Mayor's Office of Housing may, in order to
3 promote consistency with the procedures of the San Francisco Redevelopment Agency, develop an asset
4 test that differs from the State definition if it publishes that test in the Procedures Manual.

5 (2) "Base Price" shall mean the price that the current owner paid for their property
6 or the reset price the current owner received when entering into a contract under Section
7 1344(i).

8 (3) "Below Market Rate Condominium Conversion Program" or "Program" shall mean the
9 actions taken by the City to preserve certain low and moderate income housing through the
10 implementation of Sections 1341 and 1385.

11 (34) "BMR Unit" shall mean a unit restricted as a below market rate unit under the
12 provisions of Section 1341 or 1385.

13 (45) "Conditional Use" for purposes of this Ordinance means a conditional use authorization
14 that, pursuant to the Planning Code, is required for the residential component of a project.

15 (56) "Conditions of Approval" shall be a set of written conditions imposed by the Planning
16 Commission or another permit-issuing City agency or appellate body to which a project applicant
17 agrees to adhere and fulfill when it receives a conditional use or planned unit development permit for
18 the conversion of a BMR Unit subject to this Program.

19 (67) "Fair Market Value" shall mean the greater of the Unit sales price or the
20 Appraised Value of the Unit as of the date of valuation. The owner and the City, acting
21 through the Mayor's Office of Housing, may determine the Fair Market Value by mutual
22 agreement without obtaining an appraisal. If the owner and the City are unable to agree on a
23 a Fair Market Value, then the "Appraised Value" of the Unit is defined as the value that would
24 be agreed to by a seller who is willing to sell but under no particular urgent necessity or
25

1 obligation to sell, and a buyer who is ready, willing and able to buy but under no particular or
2 urgent necessity to buy, each dealing with the other with full knowledge of all the uses and
3 purposes for which the Property is reasonably adaptable and available. For purposes of
4 determining the Appraised Value, the Borrower shall select and pay for an appraiser who is an
5 "MAI" member of the American Institute of Real Estate Appraisers or an "SRPA" member of
6 the Society of Real Estate Appraisers (or any such equivalent designations). The City has the
7 option, at City's sole expense, to select an appraiser to conduct an additional appraisal of the
8 Property. If the two appraisals are not in agreement as to the Appraised Value of the
9 Property, the amounts determined by the appraisals will be averaged to determine the
10 Appraised Value of the Property for purposes of this ordinance. the price determined by the
11 Department of Real Estate based upon two independent appraisals done in conformance with
12 the Uniform Standards of Professional Appraisal Practice;

13 (8) "First Time Homebuyer" shall mean a household who has not held an ownership
14 interest in any residential or commercial real property in the last three years.

15 (79) "Household of Low Income" shall mean a household whose combined annual gross
16 income for all members does not exceed 80 percent of Area Median Income as published by the United
17 States Department of Housing and Urban Development (HUD) and adjusted for household size.

18 (810) "Household of Moderate Income" shall mean a household whose combined annual gross
19 income for all members does not exceed 120 percent of Area Median Income as published by the
20 United States Department of Housing and Urban Development (HUD) and adjusted for household size.

21 (911) "Maximum Annual Rent" shall mean the maximum rent that a Property Owner may
22 charge any tenant occupying a BMR Unit for the calendar year as published by MOH. The maximum
23 annual rent for a BMR Unit of the size indicated below shall be no more than 30 percent of the annual
24 gross income for a household of low or moderate income as defined in this Section, depending on how
25

1 the BMR Unit is designated, and as adjusted for the household size indicated below as of the first date
2 of the tenancy:

3 TABLE INSET:

<u>Number of Bedrooms</u>	<u>Number of Persons in Household</u>
<u>0</u>	<u>1</u>
<u>1</u>	<u>2</u>
<u>2</u>	<u>3</u>
<u>3</u>	<u>4</u>
<u>4</u>	<u>5</u>

12 (4012) "Mayor's Office of Housing or MOH" shall mean the Mayor's Office of Housing or its
13 successor.

14 (4413) "Notice of Special Restrictions" shall mean a document recorded with the San Francisco
15 Recorder's Office for any unit subject to this Program detailing the sale and resale or rental
16 restrictions and any restrictions on purchaser or tenant income levels included as a Condition of
17 Approval of the principal project relating to the unit.

18 (14) "Original Subdivider" for purposes of this Section 1344 only shall mean a
19 Subdivider, or its successor in interest, that was subject to Section 1341 and/or 1385 and that
20 chose to rent the BMR Units under Section 1341(d) and has continued to rent the Units.

21 (4215) "Owner" shall mean the record owner of the fee or a vendee in possession.

22 (15a) "Pre-Affidavit Owner" shall mean an owner who purchased or acquired a BMR
23 Unit before December 1, 1992."

1 (15b) "Post-Affidavit Owner" shall mean an owner who purchased or acquired a BMR
2 Unit on or after December 1, 1992 and before the effective date of this legislation;

3 (15c) "Pre-Legislation Owner" shall mean all owners who purchased or acquired a
4 BMR Unit before the effective date of this legislation;

5 (15d) "Post-Legislation Owner" shall mean an owner who purchases or acquires a
6 Unit on or after the effective date of this legislation;

7 (4316) "Procedures Manual" shall mean the City and County of San Francisco Residential
8 Inclusionary Affordable Housing Program Monitoring Procedures Manual published in 2007 under
9 Planning Code Sections 315 et seq., with Condominium Conversion BMR Addendum, on file
10 with the Clerk of the Board in File No. 080520, issued by the San Francisco Department
11 of City Planning, as amended. The Mayor's Office of Housing shall update the Procedures Manual
12 from time to time as necessary in the same manner as established in Planning Code Section 315 to
13 include Procedures for this Below Market Rate Condominium Conversion Program and shall
14 make the Procedures Manual available to the public, including on its website.

15 (c) **Sale Price.**

16 (1) BMR Units purchased or acquired on or after the effective date of this ordinance. The
17 sale price of all BMR units shall be equal to the current owner's purchase price adjusted by the
18 percentage change in HUD unadjusted area median income from the purchase date to the
19 date of resale pricing, depending on how the BMR Unit is designated, and as adjusted for
20 household size as indicated below. 2.5 times the annual median income for low or moderate
21 income households, depending on how the BMR Unit is designated, and as adjusted for
22 household size as indicated below. In addition, a seller may recoup the cost of approved capital
23 improvements as defined herein and special assessments that were paid by the seller, as well

1 as the cost of using a real estate agent and Multiple Listing Service ("MLS") of up to five percent
2 (5%) of the sale price if they follow the marketing requirements set forth in the Procedures Manual.

3 TABLE INSET:

4

<u>Number of Bedrooms</u>	<u>Number of Persons in Household</u>
<u>0</u>	<u>1</u>
<u>1</u>	<u>2</u>
<u>2</u>	<u>3</u>
<u>3</u>	<u>4</u>
<u>4</u>	<u>5</u>

12

13 (2) BMR Units purchased or acquired before the effective date of this ordinance and BMR
14 Units that have not been sold by the original subdivider. BMR Units purchased or acquired
15 before the effective date of this ordinance and BMR Units that have not been sold by the original
16 subdivider shall have the sale price as provided in Section 1341(c).

17 (3) Notwithstanding the provisions of subsection (2), the Board of Supervisors ratifies the
18 decision by the Mayor's Office of Housing to set the sale price for certain BMR Units purchased or
19 acquired before the effective date of this legislation at 45 Ora Way through 95 Ora Way equal to 2.5
20 times the annual median income for low or moderate income households, depending on how the BMR
21 Unit is designated, and as adjusted for household size as indicated above in subsection (1).

22 (d) Capital improvements.

23 (1) BMR Units purchased or acquired on or after the effective date of this ordinance. The
24 Capital Improvements Policy for this Program is contained in the Procedures Manual, on file

1 with the Clerk of the Board in File No. 080520 and available on MOH's website. The Policy
2 shall include a per unit cap of 10% of the resale price in order to maintain affordability and
3 shall be MOH shall develop a policy on allowable capital improvements for this Program that
4 is consistent with the policy for the Residential Inclusionary Affordable Housing Program, Planning
5 Code Sections 315 et seq. As part of this policy, MOH may establish a per unit cap to allowable
6 capital improvements in order to maintain affordability. The Capital Improvements Policy shall
7 be a part of the Procedures Manual.

8 (2) BMR Units purchased or acquired before the effective date of this ordinance. MOH
9 shall continue to use the 1993 Capital Improvements Policy, on file with the Clerk of the Board in
10 File No. 080520 and available on the Mayor's Office of Housing website, to implement the
11 requirements of Section 1341(c) and shall publish the Policy on its website.

12 (e) Sale Procedures. Unless specifically provided otherwise, these procedures apply
13 to all BMR Units, regardless of when purchased or acquired.

14 (1) Purchasers. MOH shall insure that all BMR Units conveyed under this Program are
15 sold or transferred to households that qualify as both (A) low- or moderate-income households,
16 depending on how the BMR Unit is designated, as defined; and (B) a First Time Homebuyer household.
17 MOH shall give preference as provided in Subsection (5) below and shall follow the procedures set
18 forth in the Procedures Manual.

19 (2) Duration and Monitoring of Affordability. As provided by Sections 1341 and 1385 BMR
20 Units restricted under this Program are to remain affordable for the life of the BMR Unit. MOH shall
21 insure the BMR Units remain affordable through the following mechanisms. Nothing in this legislation
22 shall preclude the Mayor's Office of Housing from instituting additional mechanisms to insure
23 affordability through the Procedures Manual.

1 (A) ~~For BMR Units purchased or acquired on or after the effective date of this legislation,~~
2 MOH shall require all BMR Units subject to this Program to record a Notice of Special Restrictions
3 with the Recorder of the City and County of San Francisco. The Notice of Special Restrictions must
4 incorporate the resale procedures for resale or transfer, affordability restrictions, and other
5 requirements of this Program and provide that the owner or tenant shall adhere to the marketing,
6 monitoring, and enforcement procedures outlined in the Procedures Manual, as amended from time to
7 time, in effect at the time of sale. MOH shall maintain records of the applicable Procedures Manual
8 for each BMR Unit transferred or resold under this Program. The Procedures Manual will be
9 referenced in the Notice of Special Restrictions for each BMR Unit.

10 (B) ~~For BMR Units purchased or acquired before the effective date of this legislation,~~ The
11 Mayor's Office of Housing has a right of first refusal. MOH shall exercise this right of first refusal at
12 sale consistent with the provisions of Section 1341 and 1341B. In addition, for some BMR Units, a
13 Notice of Special Restrictions (NSR) was recorded against the BMR Unit. For those BMR Units, the
14 provisions in subsection (A) apply. For some BMR Units, or the conditions of approval for the
15 project require that an NSR be recorded, but no NSR has yet been recorded. For these BMR
16 Units, the Planning Department and the Mayor's Office of Housing shall work with the owner
17 to insure that the owner records an NSR and thereafter, the provisions in subsection (A) shall
18 apply. For those BMR Units, the provisions in subsection (A) apply.

19 (3) Marketing the BMR Units. The Mayor's Office of Housing shall be responsible for
20 overseeing and monitoring the marketing of BMR Units under this Section. In general, the marketing
21 requirements and procedures shall encourage an open public marketing strategy and will be contained
22 in the Procedures Manual, as amended from time to time. The Mayor's Office of Housing may develop
23 occupancy standards for BMR Units of different bedroom sizes in the Procedures Manual in order to
24 promote an efficient allocation of affordable units. The Mayor's Office of Housing may require in the
25

1 Procedures Manual that prospective purchasers complete homebuyer education training or fulfill other
2 requirements to adequately prepare the buyer for homeownership.

3 (4) Lottery: MOH shall require a general public lottery for all BMR units available for
4 sale/purchase.

5 (A) BMR Units purchased or acquired on or after the effective date of this
6 legislation. The specific procedures for passing a BMR Unit through inheritance are contained
7 in the Procedures Manual. All transfers through inheritance must be reported to and
8 approved by MOH and in all cases, the heir must acknowledge and agree to the provisions of
9 the BMR Program. The following households may inherit the right to occupy a BMR Unit: (i)
10 a spouse or registered domestic partner, regardless of income; (ii) a child of the owner if it
11 qualifies as a low- or moderate-income household depending on the designation of the Unit.
12 Consistent with the provisions herein related to owners who acquire BMR Units after the
13 effective date of this legislation, any heir must own or occupy the Unit. If the heir chooses not
14 to occupy the Unit, the heir may market and sell the Unit at the BMR Price through a public
15 lottery process. The heir will retain the proceeds of the sale.

16 (B) ~~For BMR Units purchased or acquired before the effective date of this ordinance, An~~
17 ~~an owner may pass on the right to occupy a Unit through inheritance to a specific household as long~~
18 ~~as that household meets the income qualifications for the Program, agrees to owner-occupy the~~
19 ~~BMR Unit, and is a First Time Homebuyer. If the household chooses not to owner-occupy the~~
20 ~~Unit, it may sell the Unit at its restricted price consistent with the provisions of this legislation~~
21 ~~and receive the proceeds of the sale. All transfers through inheritance must be reported to~~
22 ~~and approved by MOH and in all cases, the heir must acknowledge and agree to the provisions~~
23 ~~of the BMR Program. For BMR Units purchased or acquired on or after the effective date of~~
24
25

1 this ordinance, MOH shall be authorized to implement regulations in the Procedures Manual
2 limiting if and to what extent a BMR unit may be passed on through inheritance.

3 (5) Preferences. The Mayor's Office of Housing shall give first priority to an existing tenant
4 of a BMR Unit at the time of sale if that tenant qualifies as a low or moderate income household,
5 depending on how the BMR Unit is designated. If there is no existing qualifying tenant who wishes to
6 purchase the BMR Unit, the Mayor's Office of Housing shall use a lottery system that gives preference
7 to households who live or work in San Francisco and meet all other homebuyer requirements.
8 Otherwise, it is the policy of the Board of Supervisors to treat all households equally in allocating
9 affordable BMR Units under this Program.

10 (f) Rental Procedures.

11 (1) BMR Units purchased or acquired on or after the effective date of this ordinance. All
12 owners purchasing or acquiring BMR Units on or after the effective date of this legislation must
13 owner-occupy the BMR Unit. No rental of such BMR Units shall be permitted without the express
14 written consent of MOH and under the circumstances outlined in the Procedures Manual.

15 (2) BMR Units purchased or acquired before the effective date of this ordinance, but on or
16 after June 1, 1988. The Board of Supervisors reiterates and readopts the requirement that it
17 legislated effective June 1, 1988 that BMR Units in this Program must be owner occupied.
18 The Board instructs MOH to enforce this requirement. To this end, for BMR Units purchased
19 or acquired by individuals before the effective date of this legislation but on or after June 1,
20 1988, the homeowner may continue to rent to an income qualified tenant at an affordable rent,
21 as defined, for a period of no longer than 24 months after the effective date of this legislation.
22 At the end of the 24-month period, the owner must occupy the BMR Unit or sell it.

23 (3) For BMR Units purchased or acquired by individuals before June 1, 1988 or
24 owned by the original Subdivider or its successor in interest, rRenting is permitted under the
25

1 following conditions. The owner may continue to rent the BMR Unit to an income qualified tenant at
2 an affordable rent, as defined. The owner may continue to rent to the current tenant at the current rent
3 level until the tenant vacates, at which time the owner must notify MOH of their intent to re-rent the
4 Unit. The owner and MOH shall follow the rental procedures as set forth in the Procedures Manual.
5 Additionally, the owner must submit a monitoring report to the Mayor's Office of Housing (MOH), at a
6 timeframe determined by MOH, to verify current tenant information and rent levels. For current
7 owners only, the Board hereby supercedes the requirement of Section 1341B effective June
8 1, 1998 that BMR Units in this Program be owner-occupied.

9 (g) Other regulations: This Section 1344 sets forth the current requirements and
10 procedures for the Condominium Conversion Below Market Rate Program ("Program"). To implement
11 this Section, the Department of City Planning and the Mayor's Office of Housing shall periodically
12 publish a Procedures Manual containing procedures for monitoring and enforcement of the policies
13 and procedures for implementation of this Program. The Procedures Manual must be made available
14 upon request and on the Mayor's Office of Housing website. The Procedures Manual shall not be
15 amended, except for an annual update of the affordability housing guidelines, which reflect updated
16 income limits, prices, and rents, without approval of the Planning Commission or as otherwise
17 specified herein.

18 The Procedures Manual in effect at the time of the most recent owner's purchase of initial
19 purchase or initial rental of a BMR Unit shall govern the regulation of that BMR Unit until it is
20 transferred or sold. or re-rented unless an owner or current tenant chooses to be governed by
21 all of the more up-to-date provisions of the then-current Procedures Manual. Any future
22 amendments to the Procedures Manual will not be retroactive and will only apply to new
23 owners of BMR Units, unless the owner chooses an alternative that provides otherwise under
24 Section 1344(i). In that case, the owner or tenant must agree to be governed by the totality
25

1 of the new regulations -- an owner or tenant may not pick some provisions from the
2 Procedures Manual in effect at the time of initial purchase or initial rental and some in effect in
3 the then-current Procedures Manual. If the owner or tenant chooses to be governed by the
4 then-current Procedures Manual he or she shall sign an agreement with the City to that effect,
5 and the Planning Department and Mayor's Office of Housing shall apply all of the rules and
6 regulations in the then-current Procedures Manual to the BMR Unit.

7 (h) **Original Subdividers.** The following provisions shall apply only to Original
8 Subdividers as defined herein.

9 (1) The Mayor's Office of Housing shall release any BMR rental units if an Original
10 Subdivider can demonstrate a 20-year rental history at the affordable rate for the unit size and
11 income designation of the Unit to qualifying tenants. A release of the restrictions under the
12 Program will be recorded against the property. The standards used to determine rental
13 history at the affordable rate for the unit size and income designation of the Unit to a qualifying
14 tenant are found on file with the Clerk of the Board in File No. 080520 and on the
15 Mayor's Office of Housing website.

16 (2) If an Original Subdivider cannot demonstrate 20 years of rental at the affordable
17 rate for the unit size and income designation of the Unit to qualifying tenants, the Original
18 Subdivider may:

19 (A) Contine to rent the Units until a 20-year rental history at the affordable rate for
20 the unit size and income designation of the Unit to qualifying tenants can be demonstrated.
21 The Units shall be governed by the rules in Section 1344(f)(2). The standards used to
22 determine rental history at the affordable rate for the unit size and income designation of the
23 Unit to a qualifying tenant are found on file with the Clerk of the Board in File No.
24 and on the Mayor's Office of Housing website.

(B) Enter into an agreement with the City, acting through the Mayor's Office of Housing, to pay a housing replacement fee adjusted for income level and number of bedrooms as provided in the table below, or 50% of the difference between the BMR Resale Price and the Fair Market Value at the time of payment, as defined herein, whichever is less. The fee may be paid immediately upon execution of the Agreement or as a City lien, recorded through a note and deed of trust in favor of the City against the property, with a simple interest of 3%. Interest will not start accruing until the date which is 24 months from the effective date of this ordinance. Fifty percent (50%) of the difference between the BMR Resale Price and the Fair Market Value will be established at the time of repayment. Upon payment of the fee or recordation of a lien in favor of the City, a release of the restrictions under the Program will be recorded against the property. As part of any Agreement under this subsection, the Original Subdivider must waive all claims against the City for damages or other alleged injury arising from the Subdivider's participation in the Program. The fee shall be as follows: Enter into a contract with the City, acting through the Mayor's Office of Housing, to agree to pay a replacement housing fee in exchange for immediate release of the Units from the program, as detailed in the fee table below. Upon payment of the fee, a release of the restrictions under the Program will be recorded against the property.

TABLE INSET:

<u>Unit Size</u>	<u>Moderate Income Designation (120% AMI)</u>	<u>Low Income Designation (80% AMI)</u>
<u>1-Bedroom or Smaller</u>	<u>\$150,000*</u>	<u>\$200,000*</u>
<u>2-Bedroom</u>	<u>\$250,000*</u>	<u>\$300,000*</u>
<u>3-Bedroom</u>	<u>\$350,000*</u>	<u>\$400,000*</u>

Mayor Gavin Newsom
MAYOR

1	<u>4-Bedroom</u>	<u>\$450,000*</u>	<u>\$500,000*</u>
---	------------------	-------------------	-------------------

2 (i) Alternatives To Compliance With This Section.

3 This subsection shall be effective for 24 months from the effective date of this
4 legislation at which time it will sunset. At the owner's election and if he or she qualifies for the
5 specified option, he or she may choose to enter into a contract with the City, acting through
6 the Mayor's Office of Housing, for one of the following options. To be effective, such contract
7 must be executed by all parties and approved as to form by the City Attorney's Office on or
8 before the date which is 24 months from the effective date of this legislation. As a part of any
9 contract under this subsection, the BMR Unit Owner must waive all claims against the City for
10 damages or other alleged injury arising from the Owner's participation in the Program. Any
11 relevant documents must be recorded against the property. The Mayor's Office of Housing
12 shall, within 90 days from the effective date of this legislation, publish the last date for
13 applying for these options, a form of agreement, and any corresponding documents, on its
14 website.

15 (a) Option 1: This option is available to Pre-Affidavit Owners only. Pre-Affidavit
16 Owners may be released from the Program if they enter into an agreement with the City to
17 pay a fee adjusted for income level and number of bedrooms as provided in the table below,
18 or 50% of the difference between the BMR Resale Price and the Fair Market Value at the time
19 of payment, as defined herein, whichever is less. The fee may be paid immediately upon
20 execution of the Agreement or as a City lien, recorded through a note and deed of trust in
21 favor of the City against the property, with a simple interest of 3%. Interest will not start
22 accruing until the date which is 24 months from the effective date of this ordinance. Fifty
23 percent (50%) of the difference between the BMR Resale Price and the Fair Market Value will
24 be established at the time of repayment. Upon payment of the fee or recordation of a lien in

1 favor of the City, a release of the restrictions under the Program will be recorded against the
2 property. The fee shall be as follows:

3 TABLE INSET:

<u>Unit Size</u>	<u>Moderate Income Designation</u> <u>(120% AMI)</u>	<u>Low Income Designation (80%</u> <u>AMI)</u>
<u>1-Bedroom or</u> <u>Smaller</u>	<u>\$150,000*</u>	<u>\$200,000*</u>
<u>2-Bedroom</u>	<u>\$250,000*</u>	<u>\$300,000*</u>
<u>3-Bedroom</u>	<u>\$350,000*</u>	<u>\$400,000*</u>
<u>4-Bedroom</u>	<u>\$450,000*</u>	<u>\$500,000*</u>

11 Upon request of the Pre-Affidavit Owner, the City will subordinate its lien to a maximum of
12 80% loan to value of the property at the time of subordination.

13 (b) Option 2: This option is available to all Pre-legislation Owners. Under this option, an
14 owner will receive a one-time increase in the base resale price of their unit. In return, the
15 owner agrees to be governed by the provisions of this ordinance applicable to "Post-
16 Legislation" owners. The one-time increase in the base resale price shall result in an amount
17 as follows:

18 TABLE INSET:

<u>Unit Size</u>	<u>Moderate Income Designation</u> <u>(120% AMI)</u>	<u>Low Income Designation (80%</u> <u>AMI)</u>
<u>Junior Studio</u> <u>(GMH Only)</u>	<u>\$216,150</u>	<u>\$142,100</u>
<u>Studio</u>	<u>\$240,200</u>	<u>\$157,900</u>
<u>1-Bedroom</u>	<u>\$282,350</u>	<u>\$189,050</u>

25
Mayor Gavin Newsom
MAYOR

1	<u>2-Bedroom</u>	<u>\$324,150</u>	<u>\$220,250</u>
2	<u>3-Bedroom</u>	<u>\$366,300</u>	<u>\$251,400</u>
3	<u>4-Bedroom</u>	<u>\$399,900</u>	<u>\$276,350</u>

4 (j) Funds. Any funds received by the City through payments made in accordance
5 with subsections (h) and (i) shall be deposited in the Mayor's Home Ownership Assistance
6 Loan Fund, created under Administrative Code Section 10.100-108 and use of the funds shall
7 be governed by that section.

8 Section 3. The San Francisco Subdivision Code is hereby amended by amending
9 Sections 1308, 1309, 1341, 1341B, 1359, and 1385, to read as follows:

10 **SEC. 1308. SUBDIVISIONS.**

11 (a) "Common areas" shall mean an entire project excepting all units therein granted or
12 reserved.

13 (b) "Community Apartments" shall mean an estate in real property consisting of an undivided
14 interest in common in a parcel of real property and the improvements thereon coupled with
15 the right of exclusive occupancy of any apartment located therein.

16 (c) "Condominium" shall mean an estate in real property consisting of an undivided interest
17 in common in a portion of a parcel of real property together with a separate interest in space
18 in a residential, industrial, or commercial building on such real property, such as an
19 apartment, office, or store. A Condominium may include in addition a separate interest in
20 other portions of such real property. Such estate may, with respect to the duration of its
21 enjoyment, be either (1) an estate of inheritance or perpetual estate, (2) an estate for life, or
22 (3) and estate for years, such as a leasehold or subleasehold. This definition is intended to
23 conform to Section 783 of the California Civil Code and any other section of California law.

1 (d) "Conversion" shall mean a subdivision which changes the type of ownership of real
2 property to that defined as a Condominium project, Community Apartment project or Stock
3 Cooperative and in which two or more condominiums, community apartments or units in a
4 stock cooperative are newly created wholly or in substantial part within an existing structure or
5 structures, regardless of the present or prior use of such structures and of whether substantial
6 improvements have been made to such structures.

7 (e) "Project" shall mean the entire parcel or real property divided or to be divided in any of
8 the methods defined as a subdivision.

9 (f) "Stock Cooperative" shall mean a corporation formed or availed of primarily for the
10 purpose of holding title to, either in fee simple or for a term of years, improved real property, if
11 all or substantially all of the shareholders of such corporation receive a right of exclusive
12 occupancy in a portion of the real property, title to which is held by the corporation, which right
13 of occupancy is transferable only concurrently with the transfer of the share or shares of stock
14 in the corporation held by the person having such right of occupancy.

15 (g) "Subdivider" shall mean a person, firm, corporation, partnership or association who
16 proposes to divide, divides or causes to be divided real property into a subdivision for himself
17 or for others. City agencies, including the San Francisco Redevelopment Agency, are
18 exempted from this definition.

19 (h) "Subdivision" shall mean the division of any improved or unimproved land, shown on the
20 latest equalized County assessment roll as a unit or as contiguous units, for the purpose of
21 sale, lease or financing, whether immediate or future. Property shall be considered as
22 contiguous units even if it is separated by roads, streets, utility easements or railroad rights-of-
23 way. This definition shall specifically but not exclusively include Condominiums, Community
24 Apartments, Stock Cooperatives and Conversions.

1 (i) "Unit" shall mean the elements of a project which are to be owned individually and not in
2 common with the owners of other elements of the project.

3 (j) "Tenant" shall mean a person or persons entitled under a lease, rental agreement or other
4 agreement with the owner of record of the property or his or her agent to occupy a dwelling
5 unit. A "tenant" can be an owner or a shareholder of the owner of record who resides in the
6 property. For purposes of this definition, "Tenant" shall mean "Subtenant" as defined in
7 Section 1308(k) where the subtenant occupies and resides in the unit in agreement with and
8 to the exclusion of the tenant and with the consent of the owner.

9 (k) "Subtenant" shall mean a person or persons whose rights to occupy a dwelling are
10 derived from the tenant rather than from the property owner or his or her agent.

11 (l) "Low-Income Housing Stock" shall mean those rental dwelling units in buildings being
12 proposed for conversion for which the rent, at the time the application for conversion is filed,
13 does not exceed 25 percent of the gross monthly income of a low-income household as
14 defined in Section 1309(e). For purposes of applying this Section and Section 1309(e), a
15 studio apartment shall be deemed to be a one-person household, a one-bedroom apartment
16 shall be deemed to be a two-person household, a two-bedroom apartment shall be deemed to
17 be a three-person household, and a three-bedroom apartment shall be deemed to be a four-
18 person household.

19 (m) "Moderate-Income Housing Stock" shall mean those rental dwelling units in buildings
20 being proposed for condominium conversion, the rental for which at the time of filing the
21 application for conversion exceeds the amount which would cause the unit to be defined as
22 low-income housing stock pursuant to Section 1308(l), but does not exceed 25 percent of the
23 gross monthly income of a moderate-income household as defined in Section 1309(f). In
24
25

1 relating the size of the unit to household size, the same relationships set forth for low-income
2 housing shall apply.

3 (n) "Gross Income" shall have the meaning set forth in Section 1344. ~~mean all income from~~
4 ~~whatever source derived as provided in the Internal Revenue Code (26 U.S.C. Section 61) whether or~~
5 ~~not exempt from federal income tax.~~

6 (o) "Household" shall mean any person or persons who reside or intend to reside in the
7 same housing unit.

8 (p) "Household of median income" and "Household of low income" shall have the meaning set
9 forth in Section 1344. ~~mean a household whose combined annual gross income for all members does~~
10 ~~not exceed one hundred (100) percent of the median income for the San Francisco Metropolitan~~
11 ~~Statistical Area, as calculated by the United States Department of Housing and Urban Development~~
12 ~~(HUD) and adjusted for household size.~~

13 **SEC. 1309. TERMINOLOGY.**

14 (a) "Affirmative Action in Housing" shall mean informational and promotional activity
15 for the purpose of eliminating discrimination in housing accommodations because of
16 race, religion, national origin, sex, or any other basis prohibited by law.

17 (b) "Application Packet" shall mean the Tentative Map together with all documents,
18 statements and other matters that are required as attachments thereto.

19 (c) "Final Map" shall mean a map prepared in accordance with Chapter 2, Article 2 of
20 SMA and this Code, which map is designed to be placed on record in the office of the
21 Recorder.

22 (d) "Improvement Plan" shall mean an engineering plan or a set of engineering plans
23 showing the location and construction details of improvements.
24
25

1 (e) ~~Intentionally left blank. "Low income" shall mean the income of households, as defined by~~
2 ~~Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household income does~~
3 ~~not exceed 80 percent of the median household income for the San Francisco Standard~~
4 ~~Metropolitan Statistical Area as determined by the U.S. Department of Housing and Urban~~
5 ~~Development and adjusted according to the determination of that Department pursuant to the~~
6 ~~Housing and Community Development Act of 1974.~~

7 (f) ~~Intentionally left blank. "Moderate income" shall mean the income of households, as~~
8 ~~defined by Concept 79.1 of the 1970 U.S. Census "User's Guide," whose immediate household~~
9 ~~income is greater than 80 percent but does not exceed 120 percent of the median household~~
10 ~~income for the San Francisco Standard Metropolitan Statistical Area as determined by the U.S.~~
11 ~~Department of Housing and Urban Development and adjusted according to the determinations~~
12 ~~of that Department pursuant to the Housing and Community Development Act of 1974.~~

13 (g) "Parcel Map" shall mean a map prepared in accordance with Chapter 2, Article 3
14 of SMA and this Code, which map is designed to be placed on record in the office of
15 the Recorder.

16 (h) "Soil Engineer" shall mean a registered civil engineer, experienced in engineering
17 geology, responsible for the soil engineering work outlined in this Code, including
18 supervision, analysis and interpretation of field investigation and laboratory tests for a
19 specific project; preparation of geological and soil engineering recommendations and
20 specifications; and supervision of grading construction work.

21 (i) "Standard Specifications" shall mean the Standard Specifications of the Bureau of
22 Engineering.
23
24
25

1 (j) "Subdivision Regulations" shall mean the detailed technical and administrative
2 requirements adopted by the Advisory Agency to supplement this Code, including
3 amendments thereto.

4 (k) "Tentative Map" shall mean a map made for the purpose of showing the design of
5 a proposed subdivision and the existing conditions in and around it; such a map need
6 not be based upon an accurate or detailed final survey of the property.

7 (l) "Vesting tentative map" shall mean a tentative map which shall have at the time of
8 filing printed conspicuously on its face the words "Vesting Tentative Map."
9

10 **SEC. 1341. LOW AND MODERATE INCOME OCCUPANCY.**

11 The provisions of this Section and its application to certain properties may be affected by
12 amendments creating Section 1344. Please consult Section 1344 in addition to this Section for
13 Units subject to the Below Market Rate Condominium Conversion Program.

14 (a) In all subdivisions involving 50 or more lots or units, except for condominium or
15 cooperative conversion subdivisions, the subdivider shall make available 10 percent of
16 the units for low and moderate income occupancy provided that the Department of City
17 Planning finds that governmental subsidies for such occupancy are available to the
18 subdivider. This requirement shall not limit the authority of the City otherwise to
19 encourage the provision of low and moderate income housing, or of the subdivider to
20 make available additional low and moderate income housing.

21 (b) In all condominium or cooperative conversion subdivisions with five or more lots or
22 units, the subdivider shall make available 10 percent of the lots or units for rental or for
23 purchase by households of low or moderate income. In the event that the total number
24
25

1 of units determined to be within the low or moderate income housing stocks pursuant to
2 Section 1385 is greater than 10 percent of the total number of units in the subdivision,
3 such greater number shall apply, and such number of units determined to be within the
4 low or moderate income housing stock shall be made available for purchase as set
5 forth in Section 1385, thereby precluding the application of the alternatives set forth in
6 Section 1341 to such number of units. In the event the total number of units determined
7 to be within the low or moderate income housing stock pursuant to Section 1385 is less
8 than 10 percent of the total number of units in the subdivision, the difference between
9 such number of units determined to be within the low or moderate income housing
10 stock and the 10 percent required by Section 1341 may be satisfied by the alternatives
11 set forth in this Section.

12 (c) If the units are to be made available for purchase, then the sales prices of such
13 units shall not exceed 2.5 times the annual median income for low or moderate income
14 households, as defined, and as adjusted for household size according to the
15 relationship to the size of the dwelling, as set forth in Section 1309. Priority for
16 purchase of these units shall be as set forth in Section 1385. Any low or moderate
17 income household which purchases a dwelling pursuant to this Section shall grant a
18 right-of-first-refusal, to the City and County of San Francisco, or to such other entity
19 that at a future time may be designated by the City and County of San Francisco, to
20 repurchase the dwelling from the initial purchaser at the original price plus the cost of
21 any improvements paid for by the owner, plus an increase proportionate to the
22 increases in the housing component of the "Bay Area Cost of Living Index, U.S. Dept.
23 of Labor," over the intervening time period. The City and County of San Francisco, or
24
25

1 designated agent, shall reconvey such unit to other qualified purchasers if the right to
2 purchase is exercised by the City or its designated agent.

3 (d) If the converted units are to be for rental, then the rent in such units shall not
4 exceed the rent charged at the time of filing the application for conversion, or the
5 maximum rent that would be allowed so as to keep the unit within moderate income
6 housing stock, whichever rent level is lower. Once established, rent levels for any units
7 remaining as rental pursuant to this Section may be increased annually consistent with
8 any changes in the residential rent component of the "Bay Area Cost of Living Index,
9 U.S. Dept. of Labor." In cases of hardship to the subdivider, or in cases where a rent
10 increase authorized herein is considered by the tenant to be not consistent with
11 increases in the residential rent component of the Bay Area Cost of Living Index, either
12 a subdivider or a tenant may request relief under this Section from the Director or his or
13 her designee. In considering the reasonableness of a rent increase, the Director shall
14 consider whether the rental revenues are sufficient to adequately maintain the building
15 in safe and sound condition, and in conformity with any applicable sections of the San
16 Francisco Housing and Building Codes. The Director may allow rent increases greater
17 than the proportionate increases in the residential rent component of the "Bay Area
18 Cost of Living Index, U.S. Dept. of Labor," in order to allow the building to be
19 maintained in safe and sound condition. The rental increase provisions of this Section
20 shall apply only in the absence of other applicable rent increase or arbitration laws.

21 (e) Converted units made available for purchase by households of low or moderate
22 income pursuant to this Section, or purchased or acquired by a tenant or qualified
23 household subject to the price limitation of Section 1385, shall remain within the low or
24
25

1 moderate income housing stock pursuant to the recapture provision of Subsection (c)
2 above. Units made available for rental pursuant to Subsection (d) above shall remain
3 as rental units for no less than 20 years, provided, however, that such rental units may
4 be sold by the original subdivider or any subsequent owner during such 20-year period
5 at a price not exceeding the price at which the City and County of San Francisco would
6 be entitled to repurchase the unit if exercising its right of first refusal under Subsection
7 (c) above, and further provided that such maximum price shall not reflect the cost of
8 any improvements made within two years after recording of the final or parcel map for
9 the conversion.

10 (f) As an alternative to the provisions of Subsections (b) and (c) above, the subdivider
11 shall make a bona fide agreement, satisfactory to the Department of City Planning, to
12 construct or cause to be constructed within a period commencing 18 months prior to
13 the date of filing the application for conversion and ending 18 months after filing of the
14 final or parcel map, or to provide through other means, the same number of units and
15 under the same conditions as would be required for low or moderate income
16 occupancy under the provisions of Subsections (b), (c) and (d) above, in areas
17 approved by the Department of City Planning as being non-impacted with assisted
18 housing.

19 (g) As a further alternative to the provisions of Subsections (b), (c) and (f) above, the
20 subdivider shall pay to the City and County of San Francisco an amount equal to 10
21 percent of the difference between the aggregated total of the proposed market rate
22 sales prices, as indicated on the price list supplied with the application packet, and the
23 aggregate total of the sales prices if the units were to be sold at moderate-income
24
25

1 sales prices, as determined by the sales price formula of Section 1385 and Subsection
2 (c) above. This payment shall be made within two years of the recordation of the Final
3 Map.

4 (h) Funds collected pursuant to Subsection (g) above, shall be deposited into the
5 Housing Development Fund, which fund is to be used for persons and households of
6 low or moderate income.

7
8 **SEC. 1341B. REQUIREMENTS FOR RESALE OF CONVERTED UNITS ON OR AFTER**
9 **JUNE 1, 1988.**

10 The provisions of this Section and its application to certain properties may be affected by
11 amendments creating Section 1344. Please consult Section 1344 in addition to this Section for Units
12 subject to the Below Market Rate Condominium Conversion Program.

13
14 (1) This Section shall govern exclusively where the City and County of San Francisco,
15 on or after June 1, 1988, exercises the right of first refusal under Section 1341(c) to
16 repurchase converted units. This Section shall not apply, however, to any units which
17 are the subject of an application for conversion filed on or after June 1, 1988.

18 (2) The following definitions shall apply:

19 (a) "Household" shall mean the person or persons who will permanently reside
20 in the unit. Such persons shall include dependents as that term is defined in the
21 Internal Revenue Code provided that said dependents permanently reside in the
22 unit.

23 (b) "Eligible household" shall mean a household in which the combined gross
24 income plus 10 percent of the value of all interests in real estate, notes
25

1 receivable, bank accounts, stocks and bonds does not exceed the maximum
2 allowable income for the household under Subsection (d) below at the time of
3 purchase of the unit.

4 (c) "Gross income" shall mean all income from whatever source derived as
5 provided in the Internal Revenue Code (26 USC § 61), whether or not exempt
6 from federal income tax. Such income includes, but is not limited to, the
7 following:

- 8 (1) Compensation for services, including fees, commissions, and similar
9 items;
- 10 (2) Gross income derived from business;
- 11 (3) Gains derived from dealings in property;
- 12 (4) Interest;
- 13 (5) Rents;
- 14 (6) Royalties;
- 15 (7) Dividends;
- 16 (8) Alimony and separate maintenance payments;
- 17 (9) Annuities;
- 18 (10) Income from life insurance and endowment contracts;
- 19 (11) Pensions;
- 20 (12) Income from discharge of indebtedness;
- 21
- 22
- 23
- 24
- 25

1 (13) Distributive share of partnership gross income;

2 (14) Income in respect of a decedent; and

3 (15) Income from an interest in an estate or trust.

4
5 (d) "Maximum allowable income" shall mean 120 percent of the San Francisco
6 Standard Metropolitan Statistical Area Median Income as published annually by
7 the U.S. Department of Housing and Urban Development. The resulting figures
8 may be adjusted upwards as necessary, not to exceed 15 percent, by the
9 Director the Mayor's Office of Housing in order to assure that eligible
10 households qualify for financing by institutional lenders.

11 (e) "First-time buyer" shall mean a person who has not purchased or acquired
12 any dwelling as a principal place of residence within the past three years as
13 verified by federal tax returns for said three-year period.

14 (3) The Mayor's Office of Housing shall be responsible for administering the resale of
15 and reconveyance of units converted to condominiums under Sections 1341 and 1385
16 of this Code, including the exercise of the City's right-of-first-refusal as to sales
17 following the first sale of the unit referred to in Section 1341(c). The Mayor's Office of
18 Housing shall, whenever possible, reconvey converted units to purchasers who qualify
19 as eligible households. The Mayor's Office of Housing shall give preferential
20 consideration to households with dependents and to first-time buyers. The Mayor's
21 Office of Housing shall adopt a preferential rating system to accomplish this purpose.

22 (4) All purchasers must become owner occupants.

23
24 ~~SEC. 1343. POLICIES AND PROCEDURES FOR USE OF THE HOUSING DEVELOPMENT FUND.~~

1 ~~(1) Purpose of the Fund.~~

2 ~~(a) To reduce the cost of construction of new residential structures, or rehabilitation of~~
3 ~~existing structures, so that dwelling units in such structures are affordable by persons~~
4 ~~and families of low and moderate income.~~

5 ~~(b) To expand homeownership opportunities for persons and families of low or~~
6 ~~moderate income.~~

7 ~~(c) The determination of what constitutes housing affordable to persons and families of~~
8 ~~low and moderate income shall be in accordance with the then current Department of~~
9 ~~Housing and Urban Development guidelines.~~

10
11 ~~(2) Eligible Uses of the Fund.~~

12 ~~(a) Monies from the Fund may be made available to nonprofit housing corporations for~~
13 ~~the acquisition of available and feasible sites for developing low and moderate income~~
14 ~~housing and the rehabilitation of existing sites for low and moderate income housing.~~

15 ~~(b) Monies from the Fund may be used for costs incident to the acquisition or~~
16 ~~rehabilitation of property, including, but not limited to, architectural and engineering~~
17 ~~costs.~~

18 ~~(c) Any developer receiving monies from this Fund shall ensure that a minimum of 51~~
19 ~~percent of the units in the project are made available to persons and families of low and~~
20 ~~moderate income.~~

21 ~~(d) Monies may be used to pay the cost of administering the Fund, including the costs~~
22 ~~incurred by the the Mayor's Office of Housing in order to monitor those units which~~
23
24
25

1 ~~have been set aside for persons and families of low and moderate income and to~~
2 ~~facilitate the resale of converted units.~~

3 ~~(3) Administration of the Fund. The Fund shall be administered by the Mayor's Office of~~
4 ~~Housing.~~

5 ~~(4) Application for Loan or Grant Funds. Any nonprofit corporation concerned with the~~
6 ~~construction of housing, or concerned with the provision of housing opportunities for low or~~
7 ~~moderate income persons, may make application to the Mayor's Office of Housing for the use of~~
8 ~~monies from the Fund to be applied in accordance with the provisions of this Section 1343.~~

9 ~~Applications shall specify how monies from the Fund would make units affordable by persons or~~
10 ~~households of low or moderate income and shall specify how units assisted by the Fund would remain~~
11 ~~in occupancy by low or moderate income households.~~

12 ~~Applications shall be reviewed by the Mayor's Office of Housing, whose decisions shall be final.~~

13 ~~(5) Authorization to Expend. The Mayor and the Executive Director of the Mayor's Office of~~
14 ~~Housing shall approve expenditures from the Housing Development Fund. The funds are~~
15 ~~deemed appropriated solely for the purposes set forth in Subsections (1) and (2) above.~~

16 ~~(6) Interest. Interest earned from the Housing Development Fund shall become part of the~~
17 ~~principal and shall not be drawn from the funds for any purpose other than that for which the~~
18 ~~Housing Development Fund is established.~~

19 ~~(7) Accrual of Monies in Fund. Any unexpended balances remaining in the Housing~~
20 ~~Development Fund at the close of any fiscal year shall be deemed to have been provided for a~~
21 ~~specific purpose within the meaning of Section 6.306 of the Charter and shall be carried~~
22 ~~forward and accumulated in the Housing Development Fund for the purpose recited herein.~~

1 ~~(8) Reporting on Program Status. The Mayor's Office of Housing shall report quarterly to the~~
2 ~~Board of Supervisors on the current status of the Fund, the amount approved for disbursement,~~
3 ~~the number and types of projects assisted, and shall make recommendations for any changes~~
4 ~~deemed necessary to improve the effectiveness of the Fund in achieving its purpose.~~

5 **SEC. 1359. PARCEL MAP.**

6 (a) The requirements of Subsection (c) of Section 1356 of this Code shall apply to
7 Parcel Maps.

8 (b) The Parcel Map shall conform to the requirements of Chapter 2, Article 3 of SMA
9 and to the Subdivision Regulations regarding detailed format and contents.

10 (c) In the case of Conversions where a Tentative Map is not required, the
11 requirements of Section 1314 and the requirements of Article 9 on Conversions shall
12 apply, provided that hearings as provided in Sections 1313 and 1332 shall not be
13 required, ~~and the 10 percent low and moderate income occupancy as provided in Section 1341~~
14 ~~shall not be required,~~ and provided further that Article 9 shall not be applied to two-unit
15 buildings where both units are owner-occupied for one year prior to the application for
16 Conversion. ~~The Director of Planning, however, shall make the determination pursuant to~~
17 ~~Section 1385 concerning preservation of low and moderate income housing.~~

18 (d) In addition to the requirements of Subsection (c), the owners of record of a two-
19 unit building conversion that qualify for the exemption from Article 9 must certify under
20 penalty of perjury and the Department must verify with the Rent Stabilization and
21 Arbitration Board, and with the Human Rights Commission as applicable, that since
22 November 16, 2004, no eviction as defined in San Francisco Administrative Code
23 Section 37.9(a)(8)--(14) of a senior, disabled person, or catastrophically ill tenant as
24
25

1 defined below has occurred, or if an eviction has taken place under Administrative
2 Code Section 37.9(a)(11) or (14), that the original tenant reoccupied the unit after a
3 temporary eviction. For purposes of this Subsection a "senior" shall be a person who is
4 60 years or older and has been residing in the unit for 10 years or more at the time of
5 the lottery; a "disabled" tenant is defined for purposes of this Subsection as a person
6 who is disabled within the meaning of Title 42 U.S.C. Section 12102(2)(A); and a
7 "catastrophically ill" tenant is defined for purposes of this Subsection as a person who
8 is disabled as defined above, and who is suffering from a life threatening illness as
9 certified by his or her primary care physician.

10 (e) If the owners of record cannot satisfy the requirements of Subsection (d), then the
11 owners of record shall comply with Article 9, including its Section 1396.1(g)(3), prior to
12 submitting an application for Conversion.

13 (f) If the Department determines that an applicant has knowingly provided false
14 material information under Subsection (d) above, the Department shall immediately
15 deny the application, or if the applicant has submitted an application for conversion,
16 shall immediately deny the application for conversion. Moreover, the Department, the
17 Director, or other authorized person or entity may also enforce the provisions of this
18 Subsection under Section 1304 or any other applicable provision of law as warranted.
19

20 **SEC. 1385. PRESERVATION OF LOW AND MODERATE INCOME HOUSING.**

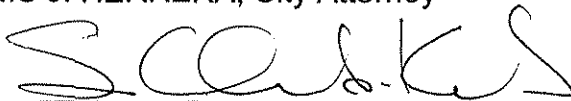
21 The provisions of this Section and its application to certain properties may be affected by
22 amendments creating Section 1344. Please consult Section 1344 in addition to this Section for Units
23 subject to the Below Market Rate Condominium Conversion Program.
24
25

1 The Department of City Planning shall determine whether any units to be converted are
2 part of the City's low and moderate income housing stocks. If the Department of City Planning
3 determines that any unit to be converted is part of the City's low or moderate income housing
4 stocks, then the price of the unit upon conversion shall not be such as to remove it effectively
5 from said low or moderate income housing stocks and shall be no greater than 2.5 times the
6 highest income level for low and moderate income households as defined in Section 1309(e)
7 and (f), and as adjusted for household size according to the size of the dwelling, as set forth in
8 Sections 1309(l) and (m). The resulting sales prices established pursuant to this formula may
9 be increased consistent with any increases in the housing component of the "Bay Area Cost
10 of Living Index, U.S. Dept. of Labor," during the period between the most recent
11 establishment of the above highest income levels and the date of commencement of sales. If
12 the tenant does not exercise the contract right to purchase the unit which has been
13 determined to be part of the low or moderate income housing stock, then the unit shall be
14 made available exclusively for purchase by qualified households of low or moderate income
15 on first-come, first-served basis for a period of not less than 12 months from the date of the
16 decision by the tenant not to exercise the contract right to purchase or, if there is no tenant,
17 from the date of issuance of the State Department of Real Estate Final Subdivision Public
18 Report, at a price no greater than that allowed under the low and moderate income price
19 guidelines set forth above. Priority, however, shall be given to low or moderate income
20 households who can demonstrate that they had previously relocated from a dwelling in a
21 building which has been approved for condominium conversion. The alternatives for low and
22 moderate income occupancy set forth in Section 1341 shall not apply, except for those
23 additional number of units which may be required pursuant to Section 1341(a) to be made
24 available for rental or for purchase by households of low or moderate income. In cases where
25

1 no low or moderate income household has purchased or contracted to purchase such unit
2 within this 12-month period, after good-faith efforts by the subdivider, the subdivider may offer
3 the unit to the general public with no price limitation.

4
5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7 By:

8 
9 SUSAN CLEVELAND-KNOWLES
10 Deputy City Attorney
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Ordinance

File Number: 080520

Date Passed:

Ordinance amending the San Francisco Subdivision Code by adding Section 1344 to update and clarify the provisions relating to Below Market Rate Units under the Condominium Conversion Program including provisions related to the calculation of sales price, renting, capital improvements, duration and monitoring of affordability, marketing, and ongoing regulations and the provisions relating to Original Subdividers who rent their Units; providing for alternatives for compliance with the ordinance; and amending Sections 1308, 1309, 1341, 1341B, 1343, 1359, and 1385 to make conforming changes, and making findings including findings under the California Environmental Quality Act (CEQA).

December 9, 2008 Board of Supervisors — PASSED ON FIRST READING

Ayes: 9 - Alioto-Pier, Campos, Chu, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Peskin
Noes: 2 - Daly, Sandoval

December 9, 2008 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE
BEARING SAME TITLE

Ayes: 11 - Alioto-Pier, Campos, Chu, Daly, Dufty, Elsbernd, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

December 9, 2008 Board of Supervisors — PASSED ON FIRST READING AS AMENDED

Ayes: 9 - Alioto-Pier, Campos, Chu, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Peskin
Noes: 2 - Daly, Sandoval

December 16, 2008 Board of Supervisors — FINALLY PASSED

Ayes: 9 - Alioto-Pier, Campos, Chu, Dufty, Elsbernd, Maxwell, McGoldrick,
Mirkarimi, Peskin
Noes: 2 - Daly, Sandoval

File No. 080520

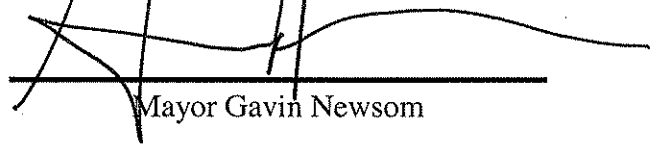
I hereby certify that the foregoing Ordinance
was **FINALLY PASSED** on December 16,
2008 by the Board of Supervisors of the City
and County of San Francisco.

12/19/2008

Date Approved



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom